MONTANA LEGISLATIVE HISTORY

Chapter 186 1979

Bill H _____ S 398 Original bill & history ✓ C

H. Committee on Human Services

Hearing Date(s) Mar 02 ✓ C

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Date Out _____ ____ C

S. Committee on Public Health Welfare & Safety

Hearing Date(s) Feb 14 ✓ C

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Did this bill originate in an interim committee? ____ Yes ____ No

Committee _____ Report _____

CHAPTER NO. 186

SENATE BILL NO. 398

INTRODUCED BY BOYLAN

BY REQUEST OF THE DEPARTMENT OF REVENUE

IN THE SENATE

February 7, 1979	Introduced and referred to Committee on Public Health, Welfare, and Safety.
February 15, 1979	Committee recommend bill do pass. Report adopted.
February 16, 1979	Printed and placed on members' desks.
February 17, 1979	Second reading, do pass.
February 19, 1979	Considered correctly engrossed.
February 20, 1979	Third reading, passed. Transmitted to second house.

IN THE HOUSE

February 21, 1979	Introduced and referred to Committee on Human Services.
March 5, 1979	Committee recommend bill be concurred in. Report adopted.
March 6, 1979	Second reading, concurred in.
March 8, 1979	Third reading, concurred in.

IN THE SENATE

March 9, 1979	Returned from second house. Concurred in. Sent to enrolling.
	Reported correctly enrolled.

BILL NO. 398

INTRODUCED BY _____

BY REQUEST OF THE DEPARTMENT OF REVENUE

A BILL FOR AN ACT ENTITLED: "AN ACT TO CONFORM CERTAIN LIQUOR LAWS TO THE CONSTITUTIONAL AMENDMENT RAISING THE DRINKING AGE TO 19 YEARS; AMENDING SECTIONS 16-3-301, 16-4-401, 16-5-101, 16-6-305, AND 16-6-314, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 16-3-301, MCA, is amended to read:

"16-3-301. Unlawful purchases, sales, or deliveries. (1) It shall be unlawful for a licensed retailer to purchase or acquire beer from anyone except a brewer or wholesaler licensed under the provisions of this code.

(2) It shall be unlawful for any licensee, his or her employee or employees, or any other person to sell, deliver, or give away or cause or permit to be sold, delivered, or given away any alcoholic beverage to:

(a) any person under ~~the age of 18 years~~ 19 years of age;

(b) any intoxicated person or any person actually, apparently, or obviously intoxicated.

(3) Any ~~minor~~ person under 19 years of age or other person who knowingly misrepresents his or her qualifications for the purpose of obtaining an alcoholic beverage from such licensee shall be equally guilty with said licensee and shall, upon conviction thereof, be subject to the penalty provided in 45-5-624; provided, however, that nothing herein contained shall be construed as authorizing or permitting the sale of an alcoholic beverage to any person in violation of any federal law.

(4) It shall be further mandatory under the provisions of this code that all licensees display in a prominent place in their premises a placard as issued by the department stating fully the consequences for violations of the provisions of this code by persons under ~~the age of 18 years~~ 19 years of age."

Section 2. Section 16-4-401, MCA, is amended to read:

"16-4-401. License as privilege -- criteria for decision on application. A license under this code is a privilege which the state may grant to an applicant and is not a right to which any applicant is entitled. The department must find in every case where it makes an order for the issuance of a new license or for the approval of the transfer of a license that:

(1) neither the applicant nor any member of his immediate family has an ownership interest in any other establishment licensed under this chapter for all-beverages sales;

(2) the applicant or any member of his immediate family is without financing from or any affiliation to a manufacturer, bottler, or distributor of beer, wine, or liquor;

(3) the applicant is a resident of the state and is qualified to vote in a state election; and

(4) the applicant's past record and present status as a purveyor of alcoholic beverages and as a businessman and citizen demonstrate that he is likely to operate his establishment in compliance with all applicable laws of the state and local governments; and

(5) the applicant is not under the age of 19 years."

Section 3. Section 16-5-101, MCA, is amended to read:

"16-5-101. Proof of age -- identification card. All persons attaining the age of ~~18~~ 19 years may apply to the county clerk and recorder of the county in which the applicant resides for an identification card which shall prima facie establish that the applicant has reached the age of ~~18~~ 19 years."

Section 4. Section 16-6-305, MCA, is amended to read:

"16-6-305. Age limit for sale of alcoholic beverages. (1) Except in the case of an alcoholic beverage given to a person under ~~the age of 18 years~~ 19 years of age by his parent or guardian for beverage or medicinal purposes or administered to him by his physician or dentist for

medicinal purposes or sold to him by a vendor or druggist upon the prescription of a physician, no person shall sell, give, or otherwise supply an alcoholic beverage to any person under ~~the age of 18 years~~ 19 years of age or permit any person under that age to consume an alcoholic beverage.

(2) Any person shall be guilty of a misdemeanor who:

(a) invites a person under the age of ~~18~~ 19 years into a public place where an alcoholic beverage is sold and treats, gives, or purchases an alcoholic beverage for such person;

(b) permits such person in a public place where an alcoholic beverage is sold to treat, give, or purchase liquor for him; or

(c) holds out such person to be ~~over the age of 18 years~~ 19 years of age or older to the owner of the establishment or his or her employee or employees."

Section 5. Section 16-6-314, MCA, is amended to read:

"16-6-314. Penalty for violating code -- revocation of license. Any person violating any of the provisions of this code shall, upon conviction thereof, be deemed guilty of a misdemeanor and punishable by such fine or imprisonment, or both, as provided in 46-18-212, except as is herein otherwise provided. If any retail licensee is convicted of any offense under this code, his license shall be immediately revoked or in the discretion of the department

such other sanction imposed as may be authorized under 16-4-406. Further, if any person under ~~the age of 18~~ 19 years of age is convicted of an offense under this code he shall be subject to a $100 fine or 30 days in confinement."

-End-

SB 398

At the very least there should be an amendement that would place the fee at what the cost would be to the state and not based on private fees. Senator Himsl said he thought these adoption agencies cooporated and wanted to know if a private agency could go into the files of SRS to find a certain type of child, get the child from SRS free, and then charge the adopting parents. Mr. Roach said he does not believe that the other agencies have free access to the files of SRS. Chairman Rasmussen asked if there as a figure to be charged. Senator Brown stated that the fiscal note reads $1200. Senator Brown stated it would be suitable to him to amend the bill on line 13 by adding "except for a reduced fee will be waived for hard-to-place children." Senator Rasmussen asked Mr. Roach if he would support or oppose the bill with that amendment. Mr. Roach said if Section 2 is revised so that the 50 percent is dropped and the statement of hard-to-place children is inserted, then his group would support the bill. Senator Brown stated that he is amenable to that.

The hearing on Senate Bill 373 was closed at 1:55 p.m.

CONSIDERATION OF SENATE BILL 398: Senate Bill 398 is an act to conform certain liquor laws to the constitutional amendment raising the drinking age to 19 years.

Chairman Rasmussen said that Senator Boylan, sponsor of Senate Bill 398, could not be here and asked that Bruce McKennis speak for him.

Bruce McKennis, Department of Revenue, said that this is a housekeeping measure. During the last general election, the voters of the state said that the drinking age should be increased to 19 from 18. This presents problems to the department in administering liquor laws in that there are other related matters.

Mr. Bill Harrington, bureau chief with the Investigation Division of the Department of Revenue, said that specific cases where changes have been requested were not addressed by the election. He stated that the department went through the Code and picked out sections that would be in conflict. On page 3, line 13, section 16-5-101, this has been suggested for repeal, but it has not been repealed at this time.

Chairman Rasmussen asked the Committee members if they had any question. Senator Norman asked if this were to be enacted and become law would it be possible for someone 18 years of age to own a liquor license and distribute liquor on the premises.

Mr. McKennis said this is a law now. Senator Norman asked if an 18 year old could sit and drink Tab without being banned. Mr. Harrington said that is permitted under state law. Senator Norman wanted to know why they didn't stop an 18 year old from holding a liquor license. Mr. McKennis said he doesn't want to get involved in the system of liquor quotas. The license is a valuable piece of property. They do not want to pass a bill saying they cannot hold a license because this would be taking personal property without compensation for those who already own a license. They are going to grandfather those people into the new law. Senator Ryan asked why they are deleting distribution of ID cards. Mr. McKennis said there is a provision already existing in state law that says you can get an ID card from the Highway Department in much the same way you get a driver's license. Therefore, having two departments give ID cards is a duplication of service.

The hearing on Senate Bill 398 was closed at 2:00 p.m.

ACTION ON SENATE BILL 398: Senator Norman moved DO PASS on Senate Bill 398. Roll call vote was taken, and the motion passed unanimously.

CONSIDERATION OF STATEMENT OF INTENT FOR SENATE BILL 100: Senator Norman explained that we need the statement because we repeatedly gave the Department of Health rule-making authority in Senate Bill 100. There were eight instances of this in the bill. Some of them were trivial, and some were more detailed. Chairman Rasmussen asked Senator Norman to skim through the bill with the Committee. Senator Norman stated that the first two pages of the statement of intent is a general statement of what the Committee is trying to do. Section 2 starting on page 11 requires the most definition. Mr. Taylor explained the different parts of the statement to the Committee. Senator Norman stated that much of the rule-making authority granted in this bill was already given to the Health Department through the years, but all this rule-making authority had to be extended to cover home health agencies.

Senator Olson moved that the Statement of Intent be adopted. The motion passed unanimously.

SENATE COMMITTEE PUBLIC HEALTH, WELFARE & SAFETY

Date 2-24-79 Bill No. SB398 Time 2:00 p.m.

NAME	YES	NO
Senator Matt V. Himsl	✓	
Senator Everett R. Lensink	✓	
Senator Bill Norman	✓	
Senator Bob Palmer	Absent	
Senator Patrick Ryan	✓	
Senator S. A. Olson, Vice-Chairman	✓	
Senator A. T. Rasmussen, Chairman	✓	

Judy T. Olson
Secretary

Tom Rasmussen
Chairman

Motion: Do Pass SB398

(include enough information on motion--put with yellow copy of committee report.)

SENATE BILL 376 - Senator McCallum, sponsor, said this is a simple bill requiring response of public assistance if they do not report their income as they are suppose to they will be required to repay 125%. If the department makes an error of overpayment then there is no penalty. There has been quite a bit of trouble throughout the state on this.

Ron Bartsch, from the Department of Revenue, said the primary thing with this bill is that the offense be litigated and charges have to be brought against the offender. It was felt there should be some penalty in the law. It is designed to attempt to defray some of the expenses in the fraud and abuse in the welfare system. There is 7 million dollars per month in assistance to recipients and this is an attemp to cover all litigated fraud.

There were no opponents to Senate Bill 376.

Senator McCallum in closing said this was heard in the Judiciary Committee and there is some stricken language and thought it legally in good shape.

There were questions by the committee.

Representative Rosenthal to Mr. Bartsch: "What percentage do you say is obtained fraudulently?" Approximately 6% in Montana. It is larger in California (15%) and New York (50%).

Representative Azzara came in.

Representative Robbins to Mr. Bartsch: "Do you have any idea how much this costs us?" The Department of Revenue has several functions and this is a small function with 20 investigators and their breakdown amounts to about $8,000 per month and of that 50% is reimbursed by federal government and actual cost to the state is $4,000 per month presently.

Representative Stobie left the meeting.

SENATE BILL 398 - Senator Blaylock, sponsor, was unable to be present to make the opening remarks and Chad Smith, representing the Montana School Boards Association, spoke for him. Mr. Smith said he also has an interest in this bill as a representative of the Montana School Boards Association, which was instrumental in working toward the 19-year drinking age. These changes are mandated by virtue of constitution change. Several sections of the liquor law had to be amended. In looking at the bill 18 years appears and it has been changed to 19 years and it addresses those obtaining liquor license and selling to individuals and those who are attempting to purchase liquor.

There were no other proponents or opponents to Senate Bill 398.

Representative Azzara to Mr. Smith: "On page 1, line 22, subsection (b) are you suggesting that a licensed retailer or

anyone who can package or unpackage cannot sell to an intoxicated person?" In answer Mr. Smith read the title of the bill and said that is not addressed in this bill.

The hearing closed on Senate Bill 398.

The committee went into executive session to take action on the following bills:

SENATE BILL 398 - Representative Dozier moved a do pass on Senate Bill 398; question. The motion carried unanimously, Representative Stobie had left a written vote of yes. Representative Fabrega was absent. Representative Dozier will carry Senate Bill 398 on the floor of the House.

SENATE BILL 376 - Representative Gesek moved a do pass on Senate Bill 376; question. The motion carried unanimously. Representative Stobie left a written vote of yes. Representative Fabrega was absent. Representative Bennett will carry Senate Bill 376.

SENATE BILL 186 - Representative Bennett moved a do pass on Senate Bill 186; question. The motion carried unanimously. Representative Fabrega was absent and Representative Stobie was not present. Representative Bennett will carry Senate Bill 186.

SENATE BILL 100 - A motion was made for a do pass. During discussion Representative Hemstad said she received a letter from the Columbus Hospital in Great Falls and since she was not present when Senate Bill 100 was heard she wanted to know what the bill would do to the bill if it was recommended that the provision to approve the certificate of need was deleted and there was another recommendation in the letter. Representative Rosenthal suggested she hand the letter to the researcher and have her look at it. If there are problems she could present those to Representative Menahan. Representative Gould asked Kerry if he was satisfied with the repealers or should it be researched before the committee vote on the bill. Representative Keyser moved that the researcher look at this and report back to the committee; question. Motion carried.

SENATE BILL 61 - Representative Feda moved for a do pass on Senate Bill 61; question. The motion carried unanimously by the members present. Representative Bennett will carry Senate Bill 61.

Chairperson Polly Holmes informed the committee there only two other bills to be heard by the committee and the committee will meet at 12:30 p.m. next Wednesday, March 7, 1979.

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